SENATE BILL NO. 140

INTRODUCED BY E. KERR-CARPENTER

A BILL FOR AN ACT ENTITLED: “AN ACT ADOPTING THE SOCIAL WORK LICENSURE COMPACT; PROVIDING FOR A MULTISTATE LICENSE FOR SOCIAL WORKERS; PROVIDING DEFINITIONS; AND PROVIDING RULEMAKING AUTHORITY.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Enactment -- provisions.** The social work licensure compact is enacted into law and entered into with all jurisdictions legally joining the compact, in the form substantially as follows:

SECTION 1

PURPOSE

The purpose of this compact is to facilitate interstate practice of regulated social workers by improving public access to competent social work services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This compact is designed to achieve the following objectives:

(1) increase public access to social work services;

(2) reduce overly burdensome and duplicative requirements associated with holding multiple licenses;

(3) enhance the member states' ability to protect the public's health and safety;

(4) encourage the cooperation of member states in regulating multistate practice;

(5) promote mobility and address workforce shortages by eliminating the necessity for licenses in multiple states by providing for the mutual recognition of other member state licenses;

(6) support military families;

(7) facilitate the exchange of licensure and disciplinary information among member states;

(8) authorize all member states to hold a regulated social worker accountable for abiding by a member state's laws, regulations, and applicable professional standards in the member state in which the client

is located at the time care is rendered; and

(9) allow for the use of telehealth to facilitate increased access to regulated social work services.

SECTION 2

DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions apply:

(1) "Active military member" means any individual with full-time duty status in the active armed forces of the United States, including members of the national guard and reserve.

(2) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that is imposed by a licensing authority or other authority against a regulated social worker, including actions against an individual's license or multistate authorization to practice, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a regulated social worker's authorization to practice, including issuance of a cease and desist action.

(3) "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a licensing authority to address practitioners with an impairment.

(4) "Charter member states" means member states who have enacted legislation to adopt this compact where such legislation predates the effective date of this compact as described in section 14.

(5) "Compact commission" or "commission" means the government agency whose membership consists of all states that have enacted this compact, which is known as the social work licensure compact commission, as described in section 10, and which shall operate as an instrumentality of the member states.

(6) "Current significant investigative information" means:

(a) investigative information that a licensing authority, after a preliminary inquiry that includes notification and an opportunity for the regulated social worker to respond has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction as may be defined by the commission; or

(b) investigative information that indicates that the regulated social worker represents an immediate threat to public health and safety, as may be defined by the commission, regardless of whether the regulated social worker has been notified and has had an opportunity to respond.

(7) "Data system" means a repository of information about licensees, including continuing education, examination, licensure, current significant investigative information, disqualifying event, multistate licenses, and adverse action information or other information as required by the commission.

(8) "Disqualifying event" means any adverse action or incident that results in an encumbrance that disqualifies or makes the licensee ineligible to either obtain, retain, or renew a multistate license.

(9) "Domicile" means the jurisdiction in which the licensee resides and intends to remain indefinitely.

(10) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of social work licensed and regulated by a licensing authority.

(11) "Executive committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the compact and commission.

(12) "Home state" means the member state that is the licensee's primary domicile.

(13) "Impairment" means a condition or conditions that may impair a practitioner's ability to engage in full and unrestricted practice as a regulated social worker without some type of intervention and may include alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

(14) "Licensee" or "licensees" means an individual who currently holds a license from a state to practice as a regulated social worker.

(15) "Licensing authority" means the board or agency of a member state, or equivalent, that is responsible for the licensing and regulation of regulated social workers.

(16) "Member state" means a state, commonwealth, district, or territory of the United States of America that has enacted this compact.

(17) "Multistate authorization to practice" means a legally authorized privilege to practice, which is equivalent to a license, associated with a multistate license permitting the practice of social work in a remote state.

(18) "Multistate license" means a license to practice as a regulated social worker issued by a home state licensing authority that authorizes the regulated social worker to practice in all member states under multistate authorization to practice.

(19) "Qualifying national exam" means a national licensing examination approved by the

commission.

(20) "Regulated social worker" means any clinical, master's or bachelor's social worker licensed by a member state regardless of the title used by that member state.

(21) "Remote state" means a member state other than the licensee's home state.

(22) "Rule", "rules", "rule of the commission", or "rules of the commission" means a regulation, or regulations duly promulgated by the commission, as authorized by the compact, that has the force of law.

(23) "Single state license" means a social work license issued by any state that authorizes practice only within the issuing state and does not include multistate authorization to practice in any member state.

(24) "Social work" or "social work services" means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities through the care and services provided by a regulated social worker as set forth in the member state's statutes and regulations in the state where the services are being provided.

(25) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of social work.

(26) "Unencumbered license" means a license that authorizes a regulated social worker to engage in the full and unrestricted practice of social work.

SECTION 3

STATE PARTICIPATION IN THE COMPACT

(1) To be eligible to participate in the compact, a potential member state must currently meet all the following criteria:

(a) license and regulate the practice of social work at either the clinical, master's, or bachelor's category;

(b) require applicants for licensure to graduate from a program that:

(i) is operated by a college or university recognized by the licensing authority;

(ii) is accredited, or in candidacy by an institution that subsequently becomes accredited, by an accrediting agency recognized by either:

(A) the council for higher education accreditation, or its successor; or

(B) the U.S. department of education; and

(iii) corresponds to the licensure sought as outlined in section 4;

(c) require applicants for clinical licensure to complete a period of supervised practice; and

(d) have a mechanism in place for receiving, investigating, and adjudicating complaints about licensees.

(2) To maintain membership in the compact a member state shall:

(a) require that applicants for a multistate license pass a qualifying national exam for the corresponding category of multistate license sought as outlined in section 4;

(b) participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(c) notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of current significant investigative information regarding a licensee;

(d) implement procedures for considering the criminal history records of applicants for a multistate license. Such procedures must include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(e) comply with the rules of the commission;

(f) require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable home state laws;

(g) authorize a licensee holding a multistate license in any member state to practice in accordance with the terms of the compact and rules of the commission; and

(h) designate a delegate to participate in the commission meetings.

(3) A member state meeting the requirements of sections 3(1) and 3(2) of this compact shall designate the categories of social work licensure that are eligible for issuance of a multistate license for applicants in such member state. To the extent that any member state does not meet the requirements for participation in the compact at any category of social work licensure, such member state may choose, but is not obligated to, issue a multistate license to applicants that otherwise meet the requirements of section 4 for issuance of a multistate license in such category or categories of licensure.

(4) The home state may charge a fee for granting the multistate license.

SECTION 4

SOCIAL WORKER PARTICIPATION IN THE COMPACT

(1) To be eligible for a multistate license under the terms and provisions of the compact, an applicant, regardless of category:

(a) must hold or be eligible for an active, unencumbered license in the home state;

(b) shall pay any applicable fees, including any state fee, for the multistate license;

(c) shall submit, in connection with an application for a multistate license, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

(d) shall notify the home state of any adverse action, encumbrance, or restriction on any professional license taken by any member state or nonmember state within 30 days from the date the action is taken;

(e) shall meet any continuing competence requirements established by the home state; and

(f) shall abide by the laws, regulations, and applicable standards in the member state where the client is located at the time care is rendered.

(2) An applicant for a clinical-category multistate license must meet all the following requirements:

(a) fulfill a competency requirement that must be satisfied by either:

(i) passage of a clinical-category qualifying national exam; or

(ii) licensure of the applicant in their home state at the clinical category, beginning prior to such time as a qualifying national exam was required by the home state and accompanied by a period of continuous social work licensure thereafter, all of which may be further governed by the rules of the commission; or

(iii) the substantial equivalency of the foregoing competency requirements that the commission may determine by rule;

(b) attain at least a master's degree in social work from a program that is:

(i) operated by a college or university recognized by the licensing authority; and

(ii) accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

(A) the council for higher education accreditation or its successor; or

(B) the U.S. department of education; and

(c) fulfill a practice requirement that must be satisfied by demonstrating completion of either:

(i) a period of postgraduate supervised clinical practice equal to a minimum of 3,000 hours;

(ii) a minimum of 2 years of full-time postgraduate supervised clinical practice; or

(iii) the substantial equivalency of the foregoing practice requirements that the commission may determine by rule.

(3) An applicant for a master's category multistate license must meet all the following requirements:

(a) fulfill a competency requirement that must be satisfied by either:

(i) passage of a master's-category qualifying national exam;

(ii) licensure of the applicant in their home state at the master's category, beginning prior to such time as a qualifying national exam was required by the home state at the master's category and accompanied by a continuous period of social work licensure thereafter, all of which may be further governed by the rules of the commission; or

(iii) the substantial equivalency of the foregoing competency requirements that the commission may determine by rule; and

(b) attain at least a master's degree in social work from a program that is:

(i) operated by a college or university recognized by the licensing authority; and

(ii) accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

(A) the council for higher education accreditation or its successor; or

(B) the U.S. department of education.

(4) An applicant for a bachelor's-category multistate license must meet all the following requirements:

(a) fulfill a competency requirement that must be satisfied by either:

(i) passage of a bachelor's-category qualifying national exam;

(ii) licensure of the applicant in their home state at the bachelor's category, beginning prior to such

time as a qualifying national exam was required by the home state and accompanied by a period of continuous social work licensure thereafter, all of which may be further governed by the rules of the commission; or

(iii) the substantial equivalency of the foregoing competency requirements that the commission may determine by rule; and

(b) attain at least a bachelor's degree in social work from a program that is:

(i) operated by a college or university recognized by the licensing authority; and

(ii) accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

(A) the council for higher education accreditation or its successor; or

(B) the U.S. department of education.

(5) The multistate license for a regulated social worker is subject to the renewal requirements of the home state. The regulated social worker must maintain compliance with the requirements of section 4(1) to be eligible to renew a multistate license.

(6) The regulated social worker's services in a remote state are subject to that member state's regulatory authority. A remote state may, in accordance with due process and that member state's laws, remove a regulated social worker's multistate authorization to practice in the remote state for a specific period, impose fines, and take any other necessary actions to protect the health and safety of its citizens.

(7) If a multistate license is encumbered, the regulated social worker's multistate authorization to practice must be deactivated in all remote states until the multistate license is no longer encumbered.

(8) If a multistate authorization to practice is encumbered in a remote state, the regulated social worker's multistate authorization to practice may be deactivated in that state until the multistate authorization to practice is no longer encumbered.

SECTION 5

ISSUANCE OF A MULTISTATE LICENSE

(1) Upon receipt of an application for multistate license, the home state licensing authority shall determine the applicant's eligibility for a multistate license in accordance with section 4 of this compact.

(2) If such applicant is eligible pursuant to section 4 of this compact, the home state licensing authority shall issue a multistate license that authorizes the applicant or regulated social worker to practice in all

member states under a multistate authorization to practice.

(3) Upon issuance of a multistate license, the home state licensing authority shall designate whether the regulated social worker holds a multistate license in the bachelor's, master's, or clinical category of social work.

(4) A multistate license issued by a home state to a resident in that state must be recognized by all compact member states as authorizing social work practice under a multistate authorization to practice corresponding to each category of licensure regulated in each member state.

SECTION 6

AUTHORITY OF INTERSTATE COMPACT COMMISSION

AND MEMBER STATE LICENSING AUTHORITIES

(1) Nothing in this compact, nor any rule of the commission, may be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws, regulations, or other rules related to the practice of social work in that state, where those laws, regulations, or other rules are not inconsistent with the provisions of this compact.

(2) Nothing in this compact may affect the requirements established by a member state for the issuance of a single state license.

(3) Nothing in this compact, nor any rule of the commission, may be construed to limit, restrict, or in any way reduce the ability of a member state to take adverse action against a licensee's single state license to practice social work in that state.

(4) Nothing in this compact, nor any rule of the commission, may be construed to limit, restrict, or in any way reduce the ability of a remote state to take adverse action against a licensee's multistate authorization to practice in that state.

(5) Nothing in this compact, nor any rule of the commission, may be construed to limit, restrict, or in any way reduce the ability of a licensee's home state to take adverse action against a licensee's multistate license based upon information provided by a remote state.

SECTION 7

REISSUANCE OF A MULTISTATE LICENSE

BY A NEW HOME STATE

(1) A licensee can hold a multistate license, issued by their home state, in only one member state at any given time.

(2) (a) If a licensee changes their home state by moving between two member states:

(i) the licensee shall immediately apply for the reissuance of their multistate license in their new home state. The licensee shall pay all applicable fees and notify the prior home state in accordance with the rules of the commission.

(ii) upon receipt of an application to reissue a multistate license, the new home state shall verify that the multistate license is active, unencumbered, and eligible for reissuance under the terms of the compact and the rules of the commission. The multistate license issued by the prior home state will be deactivated and all member states notified in accordance with the applicable rules adopted by the commission.

(iii) prior to the reissuance of the multistate license, the new home state shall conduct procedures for considering the criminal history records of the licensee. Such procedures must include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(iv) if required for initial licensure, the new home state may require completion of jurisprudence requirements in the new home state.

(b) Notwithstanding any other provision of this compact, if a licensee does not meet the requirements set forth in this compact for the reissuance of a multistate license by the new home state, then the licensee must be subject to the new home state requirements for the issuance of a single state license in that state.

(3) If a licensee changes their primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, then the licensee must be subject to the state requirements for the issuance of a single state license in the new home state.

(4) Nothing in this compact may interfere with a licensee's ability to hold a single state license in multiple states; however, for the purposes of this compact, a licensee must have only one home state and only one multistate license.

(5) Nothing in this compact may interfere with the requirements established by a member state for

the issuance of a single state license.

SECTION 8

MILITARY FAMILIES

An active military member or their spouse shall designate a home state where the individual has a multistate license. The individual may retain their home state designation during the period the service member is on active duty.

SECTION 9

ADVERSE ACTIONS

(1) (a) In addition to the other powers conferred by state law, a remote state must have the authority, in accordance with existing state due process law, to take adverse action against a regulated social worker's multistate authorization to practice only within that member state and issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state must be enforced in the latter state by any court of competent jurisdiction according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing licensing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(b) Only the home state must have the power to take adverse action against a regulated social worker's multistate license.

(2) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(3) The home state shall complete any pending investigations of a regulated social worker who changes their home state during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system shall promptly notify the new home state of any adverse actions.

(4) A member state, if otherwise permitted by state law, may recover from the affected regulated social worker the costs of investigations and dispositions of cases resulting from any adverse action taken against that regulated social worker.

(5) A member state may take adverse action based on the factual findings of another member state, provided that the member state follows its own procedures for taking the adverse action.

(6) (a) In addition to the authority granted to a member state by its respective social work practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

(b) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(7) If adverse action is taken by the home state against the multistate license of a regulated social worker, the regulated social worker's multistate authorization to practice in all other member states must be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against the license of a regulated social worker must include a statement that the regulated social worker's multistate authorization to practice is deactivated in all member states until all conditions of the decision, order, or agreement are satisfied.

(8) If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state and all other member states of any adverse actions by remote states.

(9) Nothing in this compact may override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

(10) Nothing in this compact may authorize a member state to demand the issuance of subpoenas for attendance and testimony of witnesses or the production of evidence from another member state for lawful actions within that member state.

(11) Nothing in this compact may authorize a member state to impose discipline against a regulated social worker who holds a multistate authorization to practice for lawful actions within another member state.

SECTION 10

ESTABLISHMENT OF SOCIAL WORK LICENSURE

COMPACT COMMISSION

(1) The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the social work licensure compact commission. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in section 14.

(2) (a) Each member state must have and be limited to one delegate selected by that member state's state licensing authority.

(b) The delegate must be either:

(i) a current member of the state licensing authority at the time of appointment who is a regulated social worker or public member of the state licensing authority; or

(ii) an administrator of the state licensing authority or their designee.

(c) The commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.

(d) The commission may recommend removal or suspension of any delegate from office.

(e) A member state's state licensing authority shall fill any vacancy of its delegate occurring on the commission within 60 days of the vacancy.

(f) Each delegate must be entitled to one vote on all matters before the commission requiring a vote by commission delegates.

(g) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference, or other means of communication.

(h) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference, or other similar electronic means.

(3) The commission must have the following powers:

(a) establish the fiscal year of the commission;

(b) establish code of conduct and conflict of interest policies;

(c) establish and amend rules and bylaws;

(d) maintain its financial records in accordance with the bylaws;

(e) meet and take such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws;

(f) initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law may not be affected;

(g) maintain and certify records and information provided to a member state as the authenticated business records of the commission and designate an agent to do so on the commission's behalf;

(h) purchase and maintain insurance and bonds;

(i) borrow, accept, or contract for services of personnel, including but not limited to employees of a member state;

(j) conduct an annual financial review;

(k) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(l) assess and collect fees;

(m) accept all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(n) lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

(o) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(p) establish a budget and make expenditures;

(q) borrow money;

(r) appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(s) provide and receive information from, and cooperate with, law enforcement agencies;

(t) establish and elect an executive committee, including a chair and a vice chair;

(u) determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact; and

(v) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

(4) (a) The executive committee must have the power to act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee must include the following:

(i) oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its rules and bylaws, and other such duties as deemed necessary;

(ii) recommend to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states, fees charged to licensees, and other fees;

(iii) ensure compact administration services are appropriately provided, including by contract;

(iv) prepare and recommend the budget;

(v) maintain financial records on behalf of the commission;

(vi) monitor compact compliance of member states and provide compliance reports to the commission;

(vii) establish additional committees as necessary;

(viii) exercise the powers and duties of the commission during the interim between commission meetings, except for adopting and amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

(ix) other duties as provided in the rules or bylaws of the commission.

(b) The executive committee must be composed of up to 11 members:

(i) the chair and vice chair of the commission must be voting members of the executive committee;

(ii) the commission shall elect five voting members from the current membership of the

commission; and

(iii) up to four ex-officio, nonvoting members from four recognized national social work organizations. The ex-officio members must be selected by their respective organizations.

(c) The commission may remove any member of the executive committee as provided in the commission's bylaws.

(d) The executive committee shall meet at least annually.

(i) Executive committee meetings must be open to the public, except that the executive committee may meet in a closed, nonpublic meeting as provided in subsection (6)(b) of this section.

(ii) The executive committee shall give 7 days' notice of its meetings, posted on its website, and as determined to provide notice to persons with an interest in the business of the commission.

(iii) The executive committee may hold a special meeting in accordance with subsection (6)(a)(ii) of this section.

(5) The commission shall adopt and provide to the member states an annual report.

(6) (a) All meetings must be open to the public, except that the commission may meet in a closed, nonpublic meeting as provided in subsection (6)(b) of this section.

(i) Public notice for all meetings of the full commission of meetings must be given in the same manner as required under the rulemaking provisions in section 12, except that the commission may hold a special meeting as provided in subsection (6)(a)(ii) of this section.

(ii) The commission may hold a special meeting when it must meet to conduct emergency business by giving 48 hours' notice to all commissioners, on the commission's website, and by other means as provided in the commission's rules. The commission’s legal counsel shall certify that the commission's need to meet qualifies as an emergency.

(b) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting for the commission or executive committee or other committees of the commission to receive legal advice or to discuss:

(i) noncompliance of a member state with its obligations under the compact;

(ii) the employment, compensation, discipline, or other matters, practices, or procedures related to specific employees;

(iii) current or threatened discipline of a licensee by the commission or by a member state's licensing authority;

(iv) current, threatened, or reasonably anticipated litigation;

(v) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(vi) accusing any person of a crime or formally censuring any person;

(vii) trade secrets or commercial or financial information that is privileged or confidential;

(viii) information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(ix) investigative records compiled for law enforcement purposes;

(x) information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

(xi) matters specifically exempted from disclosure by federal or member state law; or

(xii) other matters as promulgated by the commission by rule.

(c) If a meeting or portion of a meeting is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision. Such reference must be recorded in the minutes.

(d) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action must be identified in such minutes. All minutes and documents of a closed meeting must remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(7) The commission:

(a) shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities;

(b) may accept all appropriate revenue sources as provided in subsection (3)(m) of this section;

(c) may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom it grants a multistate license to cover the cost of the operations and

activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states must be allocated based upon a formula that the commission shall promulgate by rule.

(d) may not incur obligations of any kind prior to securing the funds adequate to meet the same. The commission may not pledge the credit of any of the member states, except by and with the authority of the member state.

(e) shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission must be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review must be included in and become part of the annual report of the commission.

(8) (a) The members, officers, executive director, employees, and representatives of the commission must be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this paragraph may be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission may not in any way compromise or limit the immunity granted hereunder.

(b) The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein may be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that

person's intentional or willful or wanton misconduct.

(c) The commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

(d) Nothing herein may be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which must be governed solely by any other applicable state laws.

(e) Nothing in this compact may be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

(f) Nothing in this compact may be construed to be a waiver of sovereign immunity by the member states or by the commission.

SECTION 11

DATA SYSTEM

(1) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated data system.

(2) The commission shall assign each applicant for a multistate license a unique identifier, as determined by the rules of the commission.

(3) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(a) identifying information;

(b) licensure data;

(c) adverse actions against a license and information related thereto;

(d) nonconfidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential

under member state law;

(e) any denial of application for licensure and the reasons for such denial;

(f) the presence of current significant investigative information; and

(g) other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(4) The records and information provided to a member state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, must constitute the authenticated business records of the commission and must be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a member state.

(5) Current significant investigative information pertaining to a licensee in any member state will only be available to other member states.

(6) It is the responsibility of the member states to report any adverse action against a licensee and to monitor the database to determine whether adverse action has been taken against a licensee. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(7) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(8) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the member state contributing the information must be removed from the data system.

SECTION 12

RULEMAKING

(1) The commission shall promulgate reasonable rules to effectively and efficiently implement and administer the purposes and provisions of the compact. A rule must be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

(2) The rules of the commission must have the force of law in each member state, provided however that where the rules of the commission conflict with the laws of the member state that establish the member state's laws, regulations, and applicable standards that govern the practice of social work as held by a

court of competent jurisdiction, the rules of the commission must be ineffective in that state to the extent of the conflict.

(3) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules must become binding on the day following adoption or the date specified in the rule or amendment, whichever is later.

(4) If a majority of the legislatures of the member states rejects a rule or portion of a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within 4 years of the date of adoption of the rule, then such rule must have no further force and effect in any member state.

(5) Rules must be adopted at a regular or special meeting of the commission.

(6) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

(7) Prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking:

(a) on the website of the commission or other publicly accessible platform;

(b) to persons who have requested notice of the commission's notices of proposed rulemaking; and

(c) in such other ways as the commission may by rule specify.

(8) The notice of proposed rulemaking must include:

(a) the time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting where the commission will consider and vote on the proposed rule;

(b) if the hearing is held via telecommunication, video conference, or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;

(c) the text of the proposed rule and the reason therefor;

(d) a request for comments on the proposed rule from any interested person; and

(e) the manner in which interested persons may submit written comments.

(9) All hearings will be recorded. A copy of the recording and all written comments and documents

received by the commission in response to the proposed rule must be available to the public.

(10) Nothing in this section may be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(11) The commission shall, by majority vote of all members, take final action on the proposed rule based on the rulemaking record and the full text of the rule.

(a) The commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.

(b) The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

(c) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in section 12(12), the effective date of the rule must be no sooner than 30 days after issuing the notice that it adopted or amended the rule.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule within 48 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the compact and in this section must be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately to:

(a) meet an imminent threat to public health, safety, or welfare;

(b) prevent a loss of commission or member state funds;

(c) meet a deadline for the promulgation of a rule that is established by federal law or rule; or

(d) protect public health and safety.

(13) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the website of the commission. The revision must be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the

revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

(14) No member state's rulemaking requirements may apply under this compact.

SECTION 13

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(1) (a) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(b) Except as otherwise provided in this compact, venue is proper and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein may affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

(c) The commission is entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and must have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2) Default, technical assistance, and termination:

(a) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default must describe the default, the proposed means of curing the default, and any other action that the commission may take, and must offer training and specific technical assistance regarding the default.

(b) The commission shall provide a copy of the notice of default to the other member states.

(3) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the delegates of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of

default.

(4) Termination of membership in the compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority, and each of the member states' state licensing authority.

(5) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all licensees within that state of such termination. The terminated state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 6 months after the date of said notice of termination.

(7) The commission may not bear any costs related to a state that is found to be in default or that has been terminated from the compact unless agreed upon in writing between the commission and the defaulting state.

(8) The defaulting state may appeal the action of the commission by petitioning the U.S. district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

(9) (a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(10) (a) By majority vote as provided by rule, the commission may initiate legal action against a member state in default in the U.S. district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney fees. The remedies herein may not be the exclusive remedies of the commission. The

commission may pursue any other remedies available under federal or the defaulting member state's law.

(b) A member state may initiate legal action against the commission in the U.S. district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

(c) No person other than a member state may enforce this compact against the commission.

SECTION 14

EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

(1) The compact must come into effect on the date on which the compact statute is enacted into law in the seventh member state.

(a) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the first seven member states, or charter member states, to determine if the statute enacted by each such charter member state is materially different than the model compact statute.

(i) A charter member state whose enactment is found to be materially different from the model compact statute must be entitled to the default process set forth in section 13.

(ii) If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact must remain in effect even if the number of member states should be less than seven.

(b) Member states enacting the compact after the seven initial charter member states must be subject to the process set forth in section 10(3)(u) to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

(c) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence must be considered to be actions of the commission unless specifically repudiated by the commission.

(d) Any state that joins the compact after the commission's initial adoption of the rules and bylaws must be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that

state. Any rule that has been previously adopted by the commission must have the full force and effect of law on the day the compact becomes law in that state.

(2) Any member state may withdraw from this compact by enacting a statute repealing the same.

(a) A member state's withdrawal may not take effect until 180 days after enactment of the repealing statute.

(b) Withdrawal may not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(c) Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

(3) Nothing contained in this compact may be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(4) This compact may be amended by the member states. No amendment to this compact may become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 15

CONSTRUCTION AND SEVERABILITY

(1) This compact and the commission's rulemaking authority must be liberally construed to effectuate the purposes and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules may not be construed to limit the commission's rulemaking authority solely for those purposes.

(2) The provisions of this compact must be severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government,

agency, person, or circumstance may not be affected thereby.

(3) Notwithstanding subsection (2) of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of section 13(2), terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact must be held to be contrary to the constitution of any member state, the compact must remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 16

CONSISTENT EFFECT AND CONFLICT WITH

OTHER STATE LAWS

(1) A licensee providing services in a remote state under a multistate authorization to practice shall adhere to the laws and regulations, including laws, regulations, and applicable standards, of the remote state where the client is located at the time care is rendered.

(2) Nothing herein may prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

(3) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

(4) All permissible agreements between the commission and the member states are binding in accordance with their terms.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 37, chapter 39, and the provisions of Title 37, chapter 39, apply to [section 1].

- END -